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Roberta A. Winzeler

(Name)

Roberta A. Winzeler

(Signature)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of:)	
John H. Gillen)	Group Art Unit: 3634
)	
Serial No.: 10/781,395)	Examiner: Jerry E. Redman
)	
Filing Date: February 18, 2004)	Attorney Docket: 1-15972
)	
For: POWERED SLIDER DRIVE)	
INTERFACE AND DRIVE ASSEMBLY)	

June 1, 2007

MAIL STOP APPEAL BRIEF – PATENTS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

BRIEF ON APPEAL

Honorable Sir:

This brief is in furtherance of the Notice of Appeal, in connection with the above-captioned application, which was mailed on April 4, 2007 and was received in the U.S. Patent and Trademark Office on April 9, 2007.

The fees set forth in 37 CFR 41.20(b)(2) are being submitted herewith.

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1. Real Party in Interest

The real party in interest is Pilkington North America, Inc. which is a wholly owned subsidiary of Pilkington Group Limited, which in turn is a wholly owned subsidiary of Nippon Sheet Glass Co. Limited of Japan. The assignment to Pilkington North America, Inc. was recorded on February 18, 2004, at reel 015003, frame 0342.

2. Related Appeals and Interferences

A Petition to the Director was filed on August 7, 2006 which will directly affect or be directly affected by, or have a bearing on, the Board's decision in this Appeal. As of the date of filing of the instant Appeal Brief, applicant has not received a decision from the Director on said Petition.

3. Status of Claims

The status of each of the claims is as follows:

- 1) Claims canceled: None
- 2) Claims withdrawn from consideration but not canceled: 1-11 and 14-16
- 3) Claims pending: 1-16
- 4) Claims allowed: None
- 5) Claims objected to: None
- 6) Claims rejected: 12-13

Since no decision has been rendered by the Director on applicant's Petition, applicant is appealing claims 1-16. A copy of the claims on appeal is submitted in the attached Claims Appendix.

4. Status of Amendments

No amendment was filed subsequent to the close of prosecution.

5. Summary of Claimed Subject Matter

The present invention, as set forth in independent claim 1, defines a powered slider drive interface 20 (see, for example, page 4, lines 19-21 and Figs. 1 and 4) for opening and closing a vehicle slider panel 46 across a window aperture (see, for example, Figs. 1 and 4), comprising a slider panel 46 (see, for example, page 4, line 27 and Fig. 1); a regulator 28 (see, for example, page 4, line 25 and Fig. 1); at least first and second mechanical stops 22, 22a, 22b, 34, 34a, 34b (see, for example, page 4, line 21-26 and Fig. 1) mounted on the slider panel 46 or the regulator 28, both first and second stops 22, 22a, 22b, 34, 34a, 34b having a contact surface 24, 26, 36, 38 (see, for example, page 4, lines 23-26 and Figs. 1-2A); and one or more mechanical stops 22, 22a, 22b, 34, 34a, 34b (see, for example, Figs. 2B-2C) mounted on the other of the slider

panel 46 or the regulator 28, the one or more stops 22, 22a, 22b, 34, 34a, 34b having third and fourth contact surfaces 24, 26, 36, 38; wherein when the regulator 28 is caused to move in a first direction the first stop contact surface 36 is brought into mechanical contact with the third contact surface 24, thus urging the slider panel 46 into an open position (see, for example, page 5, lines 10-12); further, wherein when the regulator 28 is caused to move in a second direction, the second stop contact surface 38 is brought into mechanical contact with the fourth contact surface 26, thus urging the slider panel 46 into a closed position (see, for example, page 5, lines 12-14).

The present invention, as set forth in independent claim 6, defines a powered slider drive interface 20 (see, for example, page 4, lines 19-21 and Figs. 1 and 4) for opening and closing a vehicle slider panel 46 across a window aperture (see, for example, Figs. 1 and 4), comprising a driver bracket 22, 22a, 22b (see, for example, page 4, line 22 and Figs. 1, 2A-B, and 4) including at least first and second contact surfaces 24, 26 (see, for example, page 4, line 24 and Figs. 1 and 2A-B), the driver bracket 22, 22a, 22b being disposed on a regulator 28 (see, for example, page 4, lines 24-25 and Figs. 1 and 2A-B); and a driver receiver 34, 34a, 34b (see, for example, page 4, lines 25-26 and Figs. 1 and 2A-B) including at least two stops 34, 34a, 34b (see, for example,

page 7, line 25 to page 8, line 2 and Figs. 1 and 2A-B), each having a contact surface 36, 38 (see, for example, page 7, line 25 to page 8, line 2 and Figs. 1 and 2A-B), the driver receiver 34, 34a, 34b being disposed on the slider panel 46 (see, for example, page 4, lines 26-27 and Figs. 1 and 2A); wherein when the regulator 28 is caused to move in a first direction, the bracket first contact surface 24 is brought into mechanical contact with the first receiver contact surface 36, thus urging the slider panel 46 into an open position (see, for example, page 5, lines 10-12 and Figs. 1 and 2A); and further, wherein when the regulator 28 is caused to move in a second direction, the bracket second contact surface 26 is brought into mechanical contact with the second receiver contact surface 38, thus urging the slider panel 46 into a closed position (see, for example, page 5, lines 12-14 and Figs. 1 and 2A).

The present invention, as set forth in independent claim 7, defines a powered slider drive assembly 20 (see, for example, page 4, lines 19-21 and Figs. 1 and 4) for opening and closing a vehicle slider panel 46 across a window aperture (see, for example, Figs. 1 and 4), comprising a driver bracket 22, 22a, 22b (see, for example, page 4, line 22 and Figs. 1, 2A-B, and 4) including at least a first contact surface 24 (see, for example, page 4, line 24 and Figs. 1 and 2A-B) and a second contact surface 26 (see, for

example, page 4, line 24 and Figs. 1 and 2A-B), the driver bracket 22, 22a, 22b being disposed on a regulator 28 (see, for example, page 4, lines 24-25 and Figs. 1 and 2A-B) having a cable 32 (see, for example, page 5, lines 7-10 and Figs. 1 and 2A-B) attached thereto, and the regulator 28 being disposed on a powered slider frame 31 (see, for example, page 5, lines 15-17 and Figs. 1 and 2A-B); and a driver receiver 34, 34a, 34b (see, for example, page 4, lines 25-26 and Figs. 1 and 2A-B) including at least a first receiver stop and a second receiver stop 34, 34a, 34b, each having a contact surface 36, 38, the driver receiver 34, 34a, 34b being disposed on the slider panel 46 (see, for example, page 4, lines 25-27 and Figs. 1 and 2A-B) that is disposed in slider tracks 54 which are positioned above and below the slider panel 46 (see, for example, page 5, lines 23-27 and Figs. 1 and 2A-B); wherein when a powered slider controller urges the cable 32 into a first direction, the first driver bracket contact surface 24 is brought into mechanical contact with the first receiver contact surface 36, thus urging the slider panel in the slider tracks 54 and opening at least a portion of the window aperture (see, for example, page 5, lines 10-12 and Figs. 1 and 2A); further, wherein when the powered slider controller urges the cable 32 into a second direction, the second driver bracket contact surface 26 is brought into mechanical contact with the second receiver contact

surface 38, thus urging the slider panel 46 in the slider tracks 54 and closing at least a portion of the window aperture (see, for example, page 5, lines 12-14 and Figs. 1 and 2A).

The present invention, as set forth in independent claim 12, defines a slider panel assembly 40 (see, for example, page 5, line 23 and Figs. 1 and 4), comprising a slider panel 46 (see, for example, page 5, lines 25-26 and Figs. 1 and 4) having a horizontal slider panel edge (see, for example, Figs. 1, 2A-C, and 4); and a driver receiver 34, 34a, 34b (see, for example, page 7, line 21 to page 8, line 2, and Figs. 1, 2A-C, and 4) including at least two receiver stops 34, 34a, 34b, the receiver stops 34, 34a, 34b being spaced apart from each other, each receiver stop 34, 34a, 34b having a contact surface 36, 38 (see, for example, Figs. 1, 2A-C, and 4), and the driver receiver 34, 34a, 34b (see, for example, Figs. 1, 2A-C, and 4) being disposed on the slider panel 46 and parallel to the horizontal slider panel edge (see, for example, Figs. 1, 2A-C, and 4); wherein the slider panel 46 is capable of horizontally (see, for example, Figs. 1, 2A-C, and 4) opening and closing a window aperture in a vehicle backlite (see, for example, page 5, lines 12-14 and Figs. 1 and 2A).

The present invention, as set forth in independent claim 14, defines a powered slider drive interface 20 (see, for example, page 4, lines 19-21 and Figs. 1 and 4) for opening and closing a vehicle slider panel 46 (see, for example, page 4, lines 19-21 and Figs. 1 and 4) across a vehicle backlite (see, for example, page 1, lines 14-19) window aperture (see, for example, page 4, lines 19-21 and Figs. 1 and 4), comprising a slider panel 46 (see, for example, page 4, line 27 and Fig. 1); a regulator 28 (see, for example, page 4, lines 24-25 and Figs. 1 and 2A-B); a first slider panel stop 34, 34a, 34b (see, for example, page 4, lines 25-26 and Figs. 1) having a first contact surface 36 (see, for example, page 7, line 25 to page 8, line 2 and Figs. 1 and 2A-B) and a second slider panel stop 34, 34a, 34b (see, for example, page 7, line 25 to page 8, line 2 and Figs. 1 and 2A-B) having a second contact surface 38 (see, for example, page 7, line 25 to page 8, line 2 and Figs. 1 and 2A-B), each slider panel stop 34, 34a, 34b mounted on the slider panel 46 (see, for example, page 4, lines 26-27 and Figs. 1 and 2A-B); and a regulator stop 22, 22a, 22b (see, for example, page 4, line 22 and Figs. 1, 2A-B, and 4) having a third and a fourth contact surface 24, 26 (see, for example, page 4, line 24 and Figs. 1, 2A-B), the regulator stop 22, 22a, 22b mounted on the regulator 28 (see, for example, page 4, line 24-25 and Figs. 1 and 2A-B); wherein the regulator 28 is urged horizontally in

a first direction (see, for example, Figs. 1, 2A-B, and 4), the first stop contact surface 36 is brought into mechanical contact with the third contact surface 24 (see, for example, Figs. 1, 2A-B, and 4), thereby opening a vehicle backlite window aperture (see, for example, page 5, line 10-12 and Figs. 1 and 2A-B); further, wherein the regulator is urged horizontally in a second direction, the second stop contact surface 38 is brought into mechanical contact with the fourth contact surface 26, thereby closing a vehicle backlite window aperture(see, for example, page 5, lines 12-14 and Figs. 1 and 2A).

6. Grounds of Rejection to be Reviewed on Appeal

The issues for appeal are:

- A) Claims 1-11 and 14-16 have been withdrawn.
- B) Claims 12 and 13 have been rejected under 35 U.S.C. 102(b) as being anticipated by Gier U.S. Patent No. 5,694,717 (hereinafter Gier).

7. Argument

A) Claims 1-11 and 14-16 should not be withdrawn.

In the Office Action of June 6, 2006, the Examiner acknowledged applicant's provisional election, with traverse, of Group I where applicant submitted that claims 1-13 read on the subject matter disclosed in Figs. 1, 2A, 3, and 4. However, the Examiner withdrew originally filed claims 1-11, which left for prosecution claims 12-13 that were directed only to the slider panel 46, not the powered slider drive interface 20.

As a result of these actions, applicant's counsel requested a telephone interview with the Examiner, which was granted and held on June 21 and July 12, 2006, during which the Examiner stated that he had "physically measured" (which applicant's counsel assumes was with a ruler) in Fig. 2A a "slight difference of maybe 1/16 inch in the width between the driver 22 and the receiver 34" (quoted from page 3 of Examiner's Office Action dated January 9, 2007). From this the Examiner concluded that the driver 22 and receiver 34 could not be brought into contact with one another, as independent claim 1 requires.

In further support of this position, the Examiner asserted in the telephone interviews that the instant disclosure taught a "force fit" and "tolerance" requirements between the driver 22 and receiver 34. Thus, the Examiner again asserted the driver 22 and receiver 34 could not be brought into contact with one another. However, in the

Office Action dated January 9, 2007 at page 3, the Examiner makes no mention of “force fit”, asserts a “need” for tolerances, and yet the Examiner appears to agree with applicant that the driver 22 and the receiver 34 are not rigidly attached, as the Examiner quotes the specification at page 6, lines 15-16, i.e., “This contact allows for substantial misalignment.”

Although the Examiner would not enter claims 1-11 for prosecution, the Examiner stated in the telephone interviews on June 21 and July 12, 2006 that applicant could petition the Director for reversal of the withdrawal of claims 1-11. Subsequently, on August 7, 2006, applicant filed a Petition to the Director under 37 CFR 1.181. As mentioned above, applicant has yet to receive any guidance from the Director on applicant's Petition for reversal of the withdrawal of claims 1-11, which would also affect the later withdrawal of claims 14-16 that were added in the Amendment of October 18, 2006.

Hence, in response to the Examiner physically measuring the figures in order to determine clearance between the driver and the receiver, applicant asserts that the courts have found that patent drawings are not intended to define precise proportions of the elements of the invention and that the specification must be utilized in conjunction with the drawings. (*In re Chitayat*, 161 USPQ 224 (CCPA 1969) and *Hockerson-Halberstadt Inc. v. Avia Group International Inc.*, 55 USPQ2d 1487 (CAFC 2000)).

In any event, applicant asserts that even a slight difference of 1/16 inch in the width between the driver 22 and the receiver 34 would be enough space to allow for bringing the driver 22 into contact with the receiver 34, as claim 1 requires.

In addition, applicant agrees with the Examiner's assertion that the specification does support a non-rigid attachment between the driver and the receiver, where the Examiner cited page 6 at line 8, which further finds support at page 6, lines 10-19 (emphasis added):

"Also, the driver bracket 22 is free to move between a portion of the space between each of the receiver contact surfaces 36, 38, wherein one of the driver contact surfaces 24, 26 will make selectively non-attached pushing or pulling mechanical contact with its corresponding receiver contact surface 36, 38. This contact allows for substantial misalignment, for example, between the regulator 28 and the slider panel 46, since varying portions of the driver contact surfaces 24, 26 and the receiver contact surfaces 36, 38 can make contact with each other."

Regarding the Examiner's statement for a "need" for tolerance between the driver and receiver, applicant asserts that the above-quoted disclosure clearly states that the driver and receiver are not rigidly attached and that this is a discovery of the subject invention, for which the Examiner has never cited any art to the contrary.

Therefore, applicant respectfully asserts that the patent drawings do properly illustrate that the driver 22 and the receiver 34 can be brought into contact with one another (as independent claim 1 requires), that the drawings are not intended to define precise proportions of the elements of the invention, that the specification must be utilized in conjunction with the drawings, and that all claims 1-16 read on species-Group I (Figs. 1, 2A, 3, 4).

Consequently, applicant respectfully submits that claims 1-11 and 14-16 of the present application should not be withdrawn.

B) Claims 12-13 are not anticipated by Gier.

The Examiner asserts that Gier discloses a slider panel assembly comprising a slider panel 1 having at least one horizontal slider panel edge (the Examiner stating that all panels have an edge), a driver receiver 4 including at least two receiver stops with surfaces/bumpers (column 3, lines 16-32), and the driver receiver 4 disposed on the slider panel 1 and parallel to the horizontal slider panel edge.

Applicant, however, traverses these rejections of claims 12-13 and asserts that independent claim 12, from which claim 13 depends, requires at least the limitations of a slider panel having a horizontal slider panel edge, and a driver receiver including at least two receiver stops, the receiver stops being spaced apart from each other, each receiver stop having a contact surface, and the driver receiver being disposed on the slider panel

and parallel to the horizontal slider panel edge, wherein the slider panel is capable of horizontally opening and closing a window aperture in a vehicle backlite.

After studying Grier and the Examiner's rejection statements, applicant cannot find anywhere in Grier where this reference teaches a driver receiver being disposed on the slider panel and parallel to the horizontal slider panel edge, as claim 12 requires. Although the Examiner states that "all panels have an edge," the Examiner never states that Gier has a horizontal edge. In fact, after studying Gier, applicant can find nowhere in Gier where this reference teaches or even illustrates a horizontal edge. Consequently, the Gier slider panel is not capable of horizontally opening and closing a window aperture in a vehicle backlite, as the claimed invention requires.

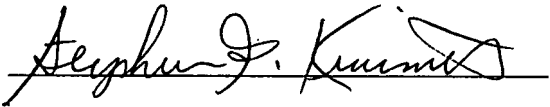
Instead, applicant finds Grier to be directed to a "window winder" (see, for example, Abstract) which is essentially a "vertically" oriented apparatus not a horizontally oriented apparatus. Further, applicant finds Gier to teach away from horizontal travel as indicated by the travel indicators L, L₁, L₂, and L₃ (see, for example, column 2, lines 56-64 and Figs. 1, 2, and 4) and the height of the rear part 4b (see, for example, column 3, lines 30-32), which indicate the "vertical" travel of the window glass 1 and the height of the guide rails (see, for example, Figs. 1-2).

For all of these reasons, it is respectfully submitted that claims 12-13 are not anticipated by Gier, as the inventions defined thereby are not identically disclosed in Gier, as required by 35 U.S.C. § 102(b). Thus, this rejection must be overturned.

CONCLUSION

For the foregoing reasons, it is submitted that the claims on appeal each define subject matter which is novel and would not have been obvious to one of ordinary skill in the art at the time the invention was made. Accordingly, all of the claims on appeal are believed to be entitled to allowance, and a favorable decision to that end is courteously solicited.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Stephen G. Kimmet", is written over a horizontal line.

Stephen G. Kimmet
Registration No. 52,488

ATTORNEYS:
MARSHALL & MELHORN, LLC.
Four SeaGate, 8th Floor
Toledo, OH 43604
Tel: 419-249-7132
Fax: 419-249-7151
kimmet@marshall-melhorn.com

8. Claims Appendix

1. A powered slider drive interface for opening and closing a vehicle slider panel across a window aperture, comprising:

a slider panel;

a regulator;

at least first and second mechanical stops mounted on the slider panel or the regulator, both first and second stops having a contact surface; and

one or more mechanical stops mounted on the other of the slider panel or the regulator, the one or more stops having third and fourth contact surfaces;

wherein when the regulator is caused to move in a first direction the first stop contact surface is brought into mechanical contact with the third contact surface, thus urging the slider panel into an open position;

further, wherein when the regulator is caused to move in a second direction, the second stop contact surface is brought into mechanical contact with the fourth contact surface, thus urging the slider panel into a closed position.

2. The powered slider drive interface of claim 1, wherein the mechanical contacts are selectively non-attached pushing or pulling mechanical contacts, thus allowing the slider panel to freely slide without binding and requiring precise alignment between the regulator and the slider panel.

3. The powered slider drive interface of claim 1, wherein separate drive bumpers are disposed on each of the slider panel stops.

4. The powered slider drive interface of claim 3, wherein the composition of the drive bumpers, contact surfaces, or stops, comprises plastic.

5. The powered slider drive interface of claim 4, wherein the plastic is selected from the group consisting of ethylene propylene diene monomer, flexible polyvinyl chloride, and urethane, or any combination thereof.

6. A powered slider drive interface for opening and closing a vehicle slider panel across a window aperture, comprising:

a driver bracket including at least first and second contact surfaces, the driver bracket being disposed on a regulator; and

a driver receiver including at least two stops, each having a contact surface, the driver receiver being disposed on the slider panel;

wherein when the regulator is caused to move in a first direction, the bracket first contact surface is brought into mechanical contact with the first receiver contact surface, thus urging the slider panel into an open position; and

further, wherein when the regulator is caused to move in a second direction, the bracket second contact surface is brought into mechanical contact with the second receiver contact surface, thus urging the slider panel into a closed position.

7. A powered slider drive assembly for opening and closing a vehicle slider panel across a window aperture, comprising:

a driver bracket including at least a first contact surface and a second contact surface, the driver bracket being disposed on a regulator having a cable attached thereto, and the regulator being disposed on a powered slider frame; and

a driver receiver including at least a first receiver stop and a second receiver stop, each having a contact surface, the driver receiver being disposed on the

slider panel that is disposed in slider tracks which are positioned above and below the slider panel;

wherein when a powered slider controller urges the cable into a first direction, the first driver bracket contact surface is brought into mechanical contact with the first receiver contact surface, thus urging the slider panel in the slider tracks and opening at least a portion of the window aperture;

further, wherein when the powered slider controller urges the cable into a second direction, the second driver bracket contact surface is brought into mechanical contact with the second receiver contact surface, thus urging the slider panel in the slider tracks and closing at least a portion of the window aperture.

8. The powered slider drive assembly of claim 7, wherein mechanical contacts between the bracket contact surfaces and receiver stops contact surfaces are selectively non-attached pushing or pulling mechanical contacts, thus allowing the slider panel to freely slide without binding and requiring precise alignment between the regulator and the slider panel.

9. The powered slider drive assembly of claim 7, wherein separate drive bumpers are disposed on each of the receiver stops.

10. The powered slider drive interface of claim 9, wherein the composition of the drive bumpers, contact surfaces, or receiver stops, comprises plastic.

11. The powered slider drive interface of claim 10, wherein the plastic is selected from the group consisting of ethylene propylene diene monomer, flexible polyvinyl chloride, and urethane, or any combination thereof.

12. A slider panel assembly, comprising:

a slider panel having a horizontal slider panel edge; and

a driver receiver including at least two receiver stops, the receiver stops being spaced apart from each other, each receiver stop having a contact surface, and the driver receiver being disposed on the slider panel and parallel to the horizontal slider panel edge;

wherein the slider panel is capable of horizontally opening and closing a window aperture in a vehicle backlite.

13. The slider panel assembly of claim 12, further comprising separate bumpers disposed on each of the receiver stops.

14. A powered slider drive interface for opening and closing a vehicle slider panel across a vehicle backlite window aperture, comprising:

- a slider panel;

- a regulator;

- a first slider panel stop having a first contact surface and a second slider panel stop having a second contact surface, each slider panel stop mounted on the slider panel; and

- a regulator stop having a third and a fourth contact surface, the regulator stop mounted on the regulator;

- wherein the regulator is urged horizontally in a first direction, the first stop contact surface is brought into mechanical contact with the third contact surface, thereby opening a vehicle backlite window aperture;

- further, wherein the regulator is urged horizontally in a second direction, the second stop contact surface is brought into mechanical contact with the fourth contact surface, thereby closing a vehicle backlite window aperture.

15. The powered slider drive interface of claim 14, further comprising:

a cable attached to the regulator, the regulator being disposed on a powered slider frame; and

upper and lower slider tracks, the upper slider track positioned above the slider panel and the lower slider track positioned below the slider panel, the slider panel being disposed in the slider tracks.

16. The powered slider drive interface of claim 15, further comprising a powered slider controller for urging the cable to horizontally open and close the vehicle backlite window aperture.

9. **Evidence Appendix**

None

10. **Related Proceedings Appendix**

None